

UNITED STATES DISTRICT COURT
WESTERN DISTRICT NORTH CAROLINA
STATESVILLE DIVISION
CIV. NO. 5:98-CV-19-MCK

FILED
STATESVILLE, N.C.
1999 MAY 10 PM 4:28
U.S. DISTRICT COURT
W. DIST. OF N.C.

CLAY HALLMAN, DEREK MILLER)
and CHRISTOPHER WILLIAMS,)

Plaintiffs,)

v.)

RAGE, INC., and)
PIZZA HUT OF HICKORY NO. 2, INC.,)

Defendants.)

**MOTION FOR
SUMMARY JUDGMENT
OF DEFENDANTS RAGE, INC. AND
PIZZA HUT OF HICKORY NO. 2, INC.**

NOW COME Defendants RAGE, INC. ("Rage") and PIZZA HUT OF HICKORY NO. 2, INC. ("Pizza Hut"), through counsel, pursuant to Rule 56 of the Federal Rules of Civil Procedure and Rule 7.1 of the Local Rules of the United States District Court for the Western District of North Carolina, and hereby move the Court for summary judgment as to the claims of Plaintiffs CLAY HALLMAN ("Hallman"), CHRISTOPHER WILLIAMS ("Williams"), and DEREK MILLER ("Miller") on the following grounds:

1. Plaintiffs have failed to produce sufficient evidence that Rage or Pizza Hut intentionally discriminated against them as required by 42 U.S.C. § 1981 or § 2000a.
2. Plaintiffs have failed to produce evidence of injury attributable to alleged conduct of Rage or Pizza Hut that is cognizable under 42 U.S.C. § 1981 or § 2000a.
3. Plaintiffs have failed to produce evidence to support a claim for punitive damages.
4. Plaintiffs have failed to produce evidence that Rage or any employee or agent of

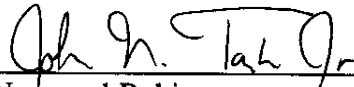
HBM

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Rage was involved in the conduct alleged in the Complaint.

In support of this motion, Rage and Pizza Hut respectfully show to the Court that there is no genuine issue of material fact as to these matters and defendants are entitled to judgment as a matter of law. Rage and Pizza Hut submit herewith an appendix of deposition transcript excerpts, plaintiffs' interrogatory responses, and the Affidavit of Richard Stephenson (attached hereto and incorporated herein by reference), and a Memorandum of Law in support of this Motion for Summary Judgment.

RESPECTFULLY SUBMITTED this the 10th day of May, 1999.



Norwood Robinson
Gray Robinson
John N. Taylor, Jr.
Attorneys for Defendants

OF COUNSEL:

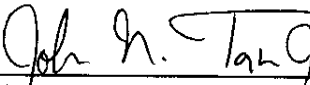
ROBINSON & LAWING, L.L.P.
370 Knollwood Street, Suite 600
Winston-Salem, NC 27103
Telephone: (336) 631-8500
Telecopy: (336) 631-6999

CERTIFICATE OF SERVICE

I, John N. Taylor, Jr., hereby certify that on this date I served a copy of the foregoing
**MOTION FOR SUMMARY JUDGMENT OF DEFENDANTS RAGE, INC. AND PIZZA
HUT OF HICKORY NO. 2, INC.** upon all counsel of record by placing a copy of the same
in the United States mail in a prepaid envelope addressed as follows:

Jay Ferguson, Esq.
Ferguson Stein, et al
Suite 300 Park Plaza Building
741 Kenilworth Avenue
P.O. Box 36486
Charlotte, NC 28236-6486

This the 10th day of May, 1999.



John N. Taylor, Jr.
Attorney for Defendants

OF COUNSEL:

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Winston-Salem, North Carolina 27103-1835
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PIZZA HUT OF HICKORY NO. 2, INC.,)
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**APPENDIX OF DEPOSITION
TRANSCRIPT EXCERPTS
AND EXHIBITS**

Tab Description

- A Excerpts from Deposition of Christopher Williams
- B Excerpts from Deposition of Clay Hallman
- C Excerpts from Deposition of Derek Miller
- D Excerpts from Deposition of David Coats
- E Excerpts from Deposition of Louis White
- F Plaintiffs' Responses to Defendants' First Set of Interrogatories
- G Harrison v. Denny's Restaurant, Inc., 1997 W.L. 227963 (N.D.Cal. 1997)
- H Allen v. Montgomery Ward & Co., Inc., 1:98CV7 (Mem. Opinion and Order, March 3, 1999)
- I Affidavit of Richard Stephenson

NOTE:

**THIS IS A PARTIALLY
SCANNED DOCUMENT.**

**PLEASE SEE THE CASE
FILE FOR
ATTACHMENTS,
EXHIBITS, AFFIDAVITS
OR OTHER MATERIAL
WHICH HAS NOT BEEN
SCANNED.**